

Minutes of the Special And Regular Meeting of Tuesday, August 9, 2005
City Council Chambers, One Twin Pines Lane

SPECIAL MEETING

CLOSED SESSIONS - 6:15 P.M.

- A. Conference with Legal Counsel pursuant to Government Code Section 54956.9(a), Existing Litigation, One Case: Eckert v. City of Belmont.
- B. Conference with Agency Representative Jack Crist, per Government Code Section 54957.6: Unrepresented Managers (Assistant City Manager, Community Development Director, Finance Director, Human Resources Director, Parks and Recreation Director, Police Chief, Public Works Director).
- C. Conference with Agency Representative Jack Crist, per Government Code Section 54957.6: City Clerk.

Attended by Councilmembers Feierbach, Bauer, Mathewson, Metropulos, Warden, City Attorney Zafferano, and Interim City Manager Jack Crist. City Clerk Cook was excused from attending.

ADJOURNMENT at this time, being 7:25 P.M.

Terri Cook
Belmont City Clerk

Meeting not audio recorded or videotaped.

REGULAR MEETING

CALL TO ORDER 7:33 P.M.

ROLL CALL

COUNCILMEMBERS PRESENT: Feierbach, Bauer, Mathewson, Metropulos, Warden

COUNCILMEMBERS ABSENT: None

Staff Present: Interim City Manager Crist, City Attorney Zafferano, Community Development Director Ewing, Finance Director Fil, Fire Chief Lowden, City Engineer Phalen, City Clerk Cook.

REPORT FROM CLOSED SESSION

Mayor Warden announced that direction had been given but no action taken during the Closed Sessions held earlier in the evening.

SPECIAL PRESENTATIONS

Mayor Warden presented a Proclamation of Appreciation to Craig Ewing, Planning and Community Development Director, who will be leaving for a new assignment in Palm Springs.

Community Development Director Ewing expressed appreciation for the Proclamation, and stated that he hoped to have lived up to expectations of the Council and the community.

Mary Lou Orr, on behalf of the Belmont Chamber of Commerce, presented Mr. Ewing with a Certificate of Appreciation and a basket of wine.

Councilmember Feierbach stated that Mr. Ewing was always patient and available to answer questions.

Councilmember Metropulos stated that Mr. Ewing explained planning issues to lay people in an understandable way.

Councilmember Mathewson stated that Mr. Ewing provided guidance to him when he was a Planning Commissioner, and was helpful on zoning issues.

Councilmember Bauer stated that Mr. Ewing always explained new concepts.

Mayor Warden stated that Community Development Director's job is difficult, one that balances the community's needs with those of an applicant, the City Council, and staff. He noted that Mr. Ewing is objective, and he appreciates his hard work and meeting challenges.

PUBLIC COMMENTS AND ANNOUNCEMENTS

George Kranen, Notre Dame Avenue, commented regarding Council's Hawaiian shirt night.

COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS

Councilmember Metropulos announced that the various schools in Belmont would be opening during the course of the next three weeks, and he urged residents to exercise caution when driving.

Mayor Warden expressed appreciation to Congresswoman Anna Eshoo who helped secure almost \$3 million in federal funds towards the Highway 101 pedestrian bike bridge. He noted that she had previously helped obtain a \$250,000 grant for the City Hall retrofit project.

CONSENT CALENDAR

Councilmember Feierbach requested the removal of Item 4-C (Resolution Granting a Hauling Permit to 1116 Lassen Drive for Using Lake Road as a Haul Route) for separate consideration.

ITEMS APPROVED ON CONSENT CALENDAR

Approval of Minutes of the Special Meeting (Closed Session) of June 20, 2005, and Special and Regular Meeting of July 12, 2005.

Approval of Resolution 9690 Approving a Permanent Encroachment Agreement for Replacing an Existing Retaining Wall within the Public Right-of-Way at 539 South Road

Approval of Resolution 9691 Approving Memorandum of Understanding Between the City of Belmont and AFSCME Local 829, AFL-CIO

ACTION: On a motion by Councilmember Mathewson, seconded by Councilmember Bauer, the Consent Agenda was unanimously approved, as amended by a show of hands.

ITEM REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION

Resolution Granting a Hauling Permit to 1116 Lassen Drive for Using Lake Road as a Haul Route

City Engineer Phalen stated that the applicant was requesting the use of Lake Road below their property as a hauling route for the reconstruction of a retaining wall. She noted that new information became available since this report was produced in that the wrong wall was indicated on the plans. She also noted that two protected trees need to be removed, triggering the need for Planning Commission review. In an attempt to expedite the project for the applicant, City Engineer Phalen recommended bifurcating the project, granting the hauling permit at this time, and forwarding the remainder of the project to the Planning Commission to resolve the tree removal issue.

City Engineer Phalen outlined the background and details of this project. She reviewed alternate hauling routes, but indicated it was infeasible to bring in equipment and soil using Lassen Road, and there could be an impact on the existing front yard retaining wall. There are timing concerns regarding the wintertime moratorium on grading, which is why the applicant was requesting bifurcation.

In response to Council questions, City Engineer Phalen stated that the impact to pedestrians and bicyclists on Lake Road would be mitigated by the use of signs and flagmen during the actual hauling. A dust control plan would be required. The City's arborist will visit the site and report to the Planning Commission regarding trees in the right-of-way. She clarified there are no protected trees in that area, only saplings, and that the applicant would be required to restore these with seedlings. She noted that construction equipment could be placed off the travel area of Lake Road in order to provide access for emergency vehicles.

Annette Kilfoil, Lassen Drive project property owner, expressed concerns for the front retaining wall that is connected to neighboring properties. She stated they have obtained signatures of approval from neighbors for the use of Lake Road, as well as the use of the neighbors' lower rear yards for the project.

Brad Kilfoil, Lassen Drive project property owner, stated he is aware the oaks are protected. He noted their own arborist has advised the tree is dying, to which former Parks and Recreation

Director Mittelstadt concurred. He expressed concerns regarding the winter grading moratorium. In response to Councilmember Feierbach, he clarified that their rear yard extends beyond the back fence, almost to Lake Road.

In response to Councilmember Mathewson, City Engineer Phalen stated that the \$50,000 bond would be used to restore the property if the project is not complete. Councilmember Mathewson noted that it is sometimes difficult to get the bonding company to perform.

Mayor Warden expressed concern regarding access to the public recreation area. He noted the applicant's request is not unreasonable, but he does not want to set precedence. He recommended a letter of credit requirement.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Mathewson, and unanimously approved by a show of hands to adopt Resolution 9692 Granting a Hauling Permit to 1116 Lassen Drive for Using Lake Road as a Haul Route, amended to bifurcate the tree removal from the hauling portion of the project, to require a letter of credit and a provision for adequate tree protection during the hauling, and for the property owner to be responsible for any trees damaged in the City right-of-way.

OLD BUSINESS

Consideration of a Resolution to place a proposition on November 8, 2005 ballot requiring voter approval of certain amendments to the existing hillside residential and open space zoning districts (HRO-1, HRO-2, HRO-3), and associated General Plan land use amendments.

City Attorney Zafferano stated that following direction given at the previous meetings regarding this topic, and after meeting with the Council subcommittee, additional modifications had been made to the proposed ordinance language. It now contains a provision to ensure that there would be no future circumvention of the HRO zoning designations, and references to road standards have been removed. He clarified that this initiative only addresses increases in density, and that the Council retains the ability to administer Conditional Use Permits, variances, and entitlements other than density.

City Attorney Zafferano stated that the Council has received much public input on this issue. He also noted that a display ad was published in the San Mateo Times advising the public that this issue was under consideration.

David Finkelstein, Attorney for Scott Piazza, stated he is a 33-year resident of Belmont and supports open space and the San Juan Canyon, but does not support this referendum. He noted its passage could lead to an outcome opposite of what is desired. He stated that no one owner could meet the financial obligations of an election, and individual owners would be forced to sell to a developer. He noted Mr. Piazza's proposal was to donate and protect 12-13 acres, and he desires to continue with his negotiations with the City on that matter.

Scott Piazza, Hillsborough resident, expressed his desire to build his retirement home on the 14-acre parcel he owns in the San Juan Canyon. He submitted a plan that protects open space and views on the property, but received no feedback from City staff or the subcommittee, and following his return from vacation, he learned the project had been denied. The proposed initiative supports large developers with deep pockets. The City should work together with landowners to achieve goals. He supports the concept but not the approach. Other owners in the Canyon are willing to work with the City. He stated that Lower Lock Road can be built, but no one wants it to be.

Rudy Helin, Redwood City resident, stated he has never submitted a proposal to develop the San Juan Canyon property he has owned for 30 years. Council wants to take away property rights. He recommended talking to property owners. He noted that everyone wins when you negotiate and everyone loses when you adjudicate. Nothing has been done in the Canyon for 30 years.

Michael Melliar-Smith, Marsten Avenue, stated he owns 17 acres of land in the Ralston Ranch area. He noted that under the slope density formula, should he desire to donate any of his land, it would count as one of the parcel units under the initiative. The initiative removes Council discretion, and he recommends that the Council retain that discretion.

Community Development Director Ewing clarified that any donation of a lot in a potential subdivision counts as one of the allowable lots. He noted that if five lots are allowed, there are a number of ways to accomplish the donation of some portion of land, or an easement across the five lots, without the creation of a sixth lot, which would trigger the election requirement.

Mayor Warden noted that a number of easements have been recorded on a number of properties as described by Community Development Director Ewing.

Andrew Williams, Bishop Road, expressed his support for the initiative as it gives power to the voters and helps the City Council in its time allocation, as too much time was spent on one proposal. There is nothing wrong with the existing rules. The previous proposal bypasses the public process. The initiative will preserve open space.

David Bomberger, Arbor Avenue, stated he was on the City Council when the HRO 1 and 2 zoning districts were formed. Great plans can be eroded by special circumstances, which can chip away at open space over the years. He supports allowing voters to decide this issue, which will eliminate the need to maintain constant vigilance over city councils regarding decision made by the people years ago.

Adele Della Santina, St. James Road, stated that impacts of the initiative are unknown, but will affect many people. There may be difficulty in clustering lots of 179,000 square feet. Private easements are not available for donation. No one has challenged existing rules, and Mr. Piazza's is the only plan to come forward. She commented that his plan would improve emergency access in the area.

Carol Rossi, Ralston Ranch Road, stated that community members are concerned regarding over-development of the Canyon, and she would like builders to be able to work with the San Juan Trust and the Council to make the best decisions for Belmont.

Linda Silva, Hastings Drive, stated she was a former Planning Commissioner in Laguna Beach, which is a carefully planned community. She noted it is very easy for things to go off kilter by those with the wherewithal to change the rules. The proposed initiative is forward thinking and does not take away property rights. She would not like to see open space chipped away.

Michael McHugh, Belmont Canyon Road, expressed concern that he was assured that floor area ratio (FAR) is not affected by the initiative, but now understands FAR projects may need to go before the voters. He stated the initiative is not clear regarding the existing slope density formula, since it constitutes an amendment. He noted that a large developer would have money for a campaign, and could ruin the Canyon.

Mayor Warden responded that there is a difference between density and intensity of use. Slope density dictates number of units allowed, and intensity dictates the size of the home on any given lot. With passage of this initiative, City Council retains the ability to control intensity of use.

City Attorney Zafferano responded that Section 4.7.13 of the Zoning Ordinance addresses exceptions to HRO standards. It does not allow the City Council to permit exceptions to floor area standards, but it does allow a variance if the findings can be met. He noted that these provisions would not change with the passage of the initiative. He added that currently the only way to allow exceptions to the standards would be an amendment to the zoning code, and following the passage of the initiative, any such amendments would require a vote of the people.

Cynthia Denny, Redwood Shores resident, via Comment Form, stated she wished to save the Canyon.

RECESS: 8:50 P.M.
RECONVENE 9:00 P.M.

Councilmember Feierbach stated this initiative affects both the San Juan Canyon area and the region above Carlmont High School. She stated that the potential for 1,000 new homes in the Canyon was previously reduced to 350, then to 110 through the lot merger and slope density formula. The same people objecting tonight were the same who objected to the slope density formula and lot merger program. A future City Council could be swayed by a developer, and some Councilmembers do not represent the desires of the residents, but rather of real estate and developers. She supports working with owners, but there is a need to control the number of units to be developed. She has been addressing open space issues in Belmont for 30 years. She supports the initiative, simplified with the elimination of the road extension issue, and will protect future zone designations.

Councilmember Metropulos stated that the current controversy proves the need for this to be put to a vote of the people. It does not take away all property rights.

Councilmember Bauer stated he disagrees with the comment regarding future Councils not supporting the rights of the people. This initiative legislates a way to preclude people's right to develop. He stated that the term "certain amendments" in the resolution is unclear to him. Mechanisms are in place to address land-use issues. He noted it is already difficult to process applications for development. The San Juan Trust has the ability to raise money for the purchase of property, but has not done so. He does not support constraining future Councils. Much of the open space area is unstable. Other safety issues are unclear, and traffic impact is minimal. He supported Mr. Piazza's project. He commented that the spirit of the law is invalidated by the proposed initiative.

Councilmember Mathewson stated he agrees with Councilmembers Feierbach and Metropulos. The initiative does not take away property rights, and the current rules will continue. He noted that similar initiatives in other communities have been successful. This is a quality of life issue, which he supports.

Mayor Warden stated that there is no need for additional homes, especially where they are difficult to build. The easy lots have been built upon. The City takes the blame for landslides. He supported the lot merger and slope density programs. He does not believe in taking away rights. The initiative does not give up rights for Conditional Use Permits, variances, or road extensions, and he would not support it if it did. He noted that many residents have supported open space over the years. The value is not realized until it is gone. The San Juan Canyon Plan contains good rules, and he is interested in supporting those existing rules. There is too much emphasis on land use during campaigns. He would like to separate them from other issues for less controversial campaigns. He stated he is in favor of the ordinance as it applies to density.

In response to Councilmember Bauer's question regarding the ballot language regarding the terminology "certain future amendments", City Attorney Zafferano clarified that he prepared a revised version of the resolution to address only the density issue, should that be the desire of the Council.

Discussion ensued regarding terminology in the resolution and proposed ordinance language.

Councilmember Bauer recommended adding language to the Severability clause making the entire ordinance null and void if any one portion is deemed invalid.

Mayor Warden stated that this clause is common in such ordinances, and removing it provides a legal loophole. He would not support its omission.

Councilmember Bauer stated this measure should require a two-thirds majority vote to pass.

Councilmember Feierbach stated that Councilmember Bauer did not vote in favor of the previous lot merger and slope density programs. She expressed her concern that future Councilmembers would not support similar land-use issues.

Mayor Warden stated that he believes the measure will receive a two-thirds majority vote.

ACTION: Councilmember Bauer made a motion to require that the ballot measure receive a two-thirds majority vote to pass. This motion died for lack of a second.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Metropulos, Resolution 9693 to place a proposition on November 8, 2005 ballot requiring voter approval of certain amendments to the existing hillside residential and open space zoning districts (HRO-1, HRO-2, HRO-3), and associated General Plan land use amendments was approved by individual roll call vote (Feierbach, Metropulos, Mathewson, Warden, yes; Bauer, no).

ACTION: On a motion by Councilmember Mathewson, seconded by Councilmember Metropulos, and unanimously approved by a show of hands to designate Councilmember Feierbach as the author of the ballot argument in favor of the measure, and Mayor Warden as the author of the rebuttal argument against the measure, should someone file an argument against.

Discussion and Direction regarding Revisions to Municipal Code Chapter 14, Motor Vehicles and Traffic (on-street parking of RV's, boats, trailers)

City Attorney Zafferano stated that this issue addresses the parking of commercial vehicles, including recreational vehicles, boats, and boat trailers on city streets. He noted that Foster City's ordinance was provided for reference. He reviewed specific provisions of the proposed ordinance.

Councilmember Bauer stated that many small businesses own commercial vehicles that are taken to personal residences in the evening. He would support an ordinance that allows this to continue.

In response to Mayor Warden, City Attorney Zafferano stated that the radius outlined in the 72-hour moving rule could be changed. He noted that some people cover their odometers to avoid ticketing.

Police Chief Mattei stated that it is difficult to read odometers on RV's, and there are none on trailers. He noted that warnings are often removed. He reviewed statistics of parking complaints relative to RV's and trailers, and noted that compliance has been achieved on all but one vehicle.

Councilmember Feierbach stated she would support an ordinance that limits the parking of RV's, boats and trailers except for maintenance and preparation for a trip. City Attorney Zafferano stated that the Foster City model allows for a 72-hour window for such activities.

Don Last, San Ardo Way, stated that he stores his RV off site, and needs preparation time twice annually. He recommended 72 hours.

Ross Stewart, Benson Way, expressed his support for a 72-hour parking rule.

Councilmember Bauer stated that he supports short-term parking, since it addresses the issue of these vehicles never being moved, which constitutes storage on the streets. He would not support a total prohibition. He thanked residents who store their vehicles off site.

Councilmember Feierbach stated that she would support the 72-hour parking window. She would not support any provisions for additional time for guests with RV's.

Discussion ensued regarding definitions and how often the 72-hour window is available.

City Attorney Zafferano stated the proposed ordinance would include the provisions from the Foster City model, with a provision for RV parking for 72 hours every 14 days.

Discussion ensued regarding limousines. City Attorney Zafferano stated that these vehicles could be addressed when the ordinance is introduced at the public hearing.

In response to Councilmember Mathewson's question regarding commercial vehicles parked in the Sterling Downs neighborhood, adjacent to businesses, Police Chief Mattei advised that these are monitored.

Mayor Warden stated that the issue is large commercial vehicles in residential neighborhoods parking on the streets for extended periods of time.

Police Department/City Hall Project - August Monthly Update

Interim City Manager Crist stated that the project is nearing completion, and moving dates for the remaining staff have been set. He commented regarding the exterior logo, City seal in the Council Chambers, and location for elected officials' photos. He reviewed financing, and noted that cost issues are being negotiated with the contractor. He stated that the demolition of the existing police building will be Phase 3, and any cost savings could be moved into that phase. He clarified that a Grand Opening celebration would be scheduled after the Festival in the Park in September.

Discussion ensued regarding the placement of current elected officials' photos, and Council concurred that these should be placed on the first floor.

Interim City Manager Crist clarified that the former Mayor photos would be re-mounted in their previous location in the third floor City Manager's conference room.

COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS

Councilmember Metropulos stated that the Office of Emergency Services provides a valuable service. He commented that San Mateo County's OES was first to respond during a recent tsunami alert on the Coast. He noted that the OES is focusing on disaster preparedness.

Councilmember Feierbach requested that residents should notify her if they observe an increase in airplane traffic in residential neighborhoods, and she would address this issue at the San Francisco Airport Roundtable.

PUBLIC COMMENTS AND ANNOUNCEMENTS (continued)

Rick Frautschi, Folger Drive, noted that the San Carlos has formed a nonprofit organization to address alternate funding for its Parks and Recreation Department. He provided information on

this, and recommended that Belmont may want to look into initiating a similar program. He congratulated Councilmember Feierbach and Planning Commissioner Dickenson for their nominations in the upcoming City Council election.

MATTERS OF COUNCIL INTEREST/CLARIFICATION

Consideration of adoption of Poet Laureate McLaughlin's poem "Belmont" as the official poem of the City; also to display it in a prominent location in City Hall (Warden).

Mayor Warden stated that the poem "Belmont", written by Jim McLaughlin in 1962, captures the spirit and soul of the City of Belmont. He recommends that the Council formally adopt it as the official poem of Belmont, and have a copy of the poem framed for display in the new City Hall.

ACTION: On a motion by Councilmember Bauer, seconded by Councilmember Metropulos, and unanimously approved by a show of hands to bring forward a resolution to adopt "Belmont" as the official poem of the City of Belmont.

ADJOURNMENT at this time, being 10:25 P.M.

**Terri Cook
BelmontCity Clerk**

Meeting Tape Recorded and Videotaped
Audio Recording 615
Minutes approved 9/13/2005